

BEFORE THE IOWA BOARD OF PHARMACY

RE:
Pharmacist License of

MICHAEL J. LYONS
License No. 16764
Respondent

CASE NO. 2017-142

**COMBINED STATEMENT OF CHARGES,
SETTLEMENT AGREEMENT, AND FINAL
ORDER**

COME NOW the Iowa Board of Pharmacy ("Board") and Michael J. Lyons ("Respondent"), 121 35th St SE, Altoona IA, 50009, and enter into this Combined Statement of Charges, Settlement Agreement, and Final Order ("Order") pursuant to Iowa Code sections 17A.10 and 272C.3(4), and 657 IAC 35.5. The Board has jurisdiction over Respondent and the subject matter of this case pursuant to Iowa Code chapters 17A, 147, 155A, and 272C (2017), and 657 IAC chapter 36.

A. STATEMENT OF CHARGES

COUNT I

FAILURE TO ENSURE LEGAL OPERATION

1. Respondent is charged with failure to ensure legal operation of a pharmacy in violation of 657—8.3(1), specifically by employing a pharmacy technician without a registration as required by 657—3.3, and may be disciplined pursuant to Iowa Code section 147.55(9) and 155A.12(1) and 657—36.6(21).

B. FACTUAL CIRCUMSTANCES

2. Respondent's pharmacist license number 16764 is currently active through June 30, 2018.

3. At all relevant times, Respondent was the pharmacist in charge at Walgreens 05942 in Newton, Iowa.

4. Walgreens 05942 had an employee whose technician registration with the Board expired on May 31, 2017.

5. From June to October 2017, Walgreens 05942, at times, inadvertently allowed the employee to work in the pharmacy, with access to prescription drugs, without an active technician registration.

6. During this time period, the employee diverted limited amounts of controlled substances from the pharmacy.

RECEIVED

MAR 08 2018

IOWA BOARD OF PHARMACY

C. SETTLEMENT AGREEMENT AND FINAL ORDER

7. The Board has jurisdiction over the parties and the subject matter of these proceedings.

8. Respondent denies the allegations in the Statement of Charges and acknowledges, but acknowledges, for the purpose of settlement, that the allegations, if proven in a contested case hearing, would constitute grounds for the discipline agreed to in this Order.

9. Execution of this Order constitutes the resolution of a contested case. Respondent has a right to hearing before the Board on the charges, but Respondent waives the right to hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's action, by freely and voluntarily entering into this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.

10. Respondent acknowledges that he has the right to be represented by counsel on this matter.

11. Respondent agrees that the State's counsel may present this Order to the Board and may have *ex parte* communications with the Board while presenting it.

12. This Order is subject to approval by a majority of the full Board. If the Board does not approve this Order, it shall be of no force or effect to either party, and shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Order, it shall be the full and final resolution of this matter.

13. This Order shall be part of Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

14. This Order shall not be binding as to any new complaints received by the Board.

15. Respondent understands the Board is required by federal law to report any adverse action to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank.

16. This Order, when fully executed, is a public record and is available for inspection and copying in accordance with the requirements of Iowa Code chapters 22 and 272C.

17. The Board's approval of this Order shall constitute a **FINAL ORDER** of the Board.

IT IS THEREFORE ORDERED:

18. Respondent is hereby **CITED** for failing to ensure the legal operation of the pharmacy and **WARNED** that future violations of the laws and rules governing the practice of pharmacy can result in further disciplinary action.

19. Respondent shall pay a **CIVIL PENALTY** in the amount of five-hundred dollars (\$500) within sixty (60) days of Board approval of this Order. The check shall be made payable to the "Treasurer of Iowa" and shall be deposited in the general fund.

20. Respondent shall complete two (2) contact hours of **CONTINUING EDUCATION** related to pharmacy ethics or law. None of the hours used to fulfill this requirement can count towards the continuing education hours required for the 2018 renewal of Respondent's pharmacist license. Respondent shall submit a certificate of completion to the Board as proof of successful completion of this requirement within sixty (60) days of Board approval of this Order. Respondent is responsible for all costs associated with obtaining the required continuing education.


21. The civil penalty and the documentation required to be submitted to the Board pursuant to paragraph 20, should be mailed to the Iowa Board of Pharmacy, Attn: Amanda Woltz, 400 SW 8th St, Ste E, Des Moines IA 50309.

22. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 147, 155A, and 272C and 657 IAC chapter 36.

This Combined Statement of Charges, Settlement Agreement, and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 6 day of March, 2018.


MICHAEL J. LYONS
Respondent

This Combined Statement of Charges, Settlement Agreement, and Final Order is approved by the Iowa Board of Pharmacy on the 14 day of March, 2018.


Chairperson
Iowa Board of Pharmacy